

# NEW JERSEY ASSOCIATION OF COUNTIES

*County Government with a Unified Voice!*

JOHN CIMINO  
NJAC President  
Mercer County Commissioner

JOHN G. DONNADIO  
Executive Director

## STATE HOUSE NEWS

*March 26, 2021*

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### LOCAL PENSION SYSTEM PROTECTIONS

On Monday, the Senate Budget and Appropriations Committee favorably reported by a vote 8-0 **SENATE BILL No. 3522** (*Sweeney D-3*), which would establish a new board of trustees for the Local Part of the Public Employees Retirement System (PERS).

NJAC strongly supports this legislation and commends Senate President Sweeny for his leadership in introducing the measure as it would protect the long-term health and viability of the local pension system by establishing a new and balanced board of trustees for PERS with the ability to determine or modify benefits, direct policies and investments to achieve full funding, and allow local governing bodies and members to serve as the fiduciary of the system. Although the Association appreciates Governor Murphy's plan to fully fund the pension system in the Fiscal Year 2022 State budget for the first time in 25 years, it's unlikely that this level of funding is sustainable once federal stimulus monies are no longer available and the State does not have the ability to issue new debt in response to the COVID-19 public health emergency. As such, S-3522 provides meaningful, long-term, and much needed protections for PERS members, local governing bodies, and property taxpayer.

For more than a decade, counties and municipalities have met their pension obligations as employers while the State of New Jersey has continued to underfund the pension systems in varying degrees since 1996 creating one of the worst publicly funded retirement systems in the nation. Despite fulfilling their fiduciary duties, local governments across the State will experience double digit percentage increases in total employer pension contributions in 2021 as determined in figures recently published by the Division of Pension and Benefits in the State Department of Treasury at [www.state.nj.us/treasury/pension](http://www.state.nj.us/treasury/pension). Even more alarming for local government employers is the fact that the unfunded accrued liability once again increased in 2021 to a staggering \$26.6 billion for PERS alone, causing in part, a decrease in the funded ratio for the Local Part of PERS to 65.4%, the State Part to 31.2%, and the combined rate to a disconcerting 52.2% far below the target funded ratio of 75.0%. With this in mind, local officials have long argued that the State of New Jersey must take proactive measures to reform the pension systems with real solutions that pay off existing deficits and of which do not affect, dilute, or divert local pension system assets.

Our friends at the New Jersey State League of Municipalities (NJLM), the Government Finance Officers Association of New Jersey (GFOA), the New Jersey Municipal Management Association (NJMMA), the New Jersey Association of County Administrators (NJACA), and the New Jersey County Finance Officers Association of New Jersey (NJCFO) also support this legislation and commend the Senate President for his leadership. The above coalition, which represents elected officials and management professionals from across the State, have hired an actuary to review the 32.7% - 42.3% average increases in normal cost contributions for 2021, which may, in part, be explained by underperforming investments, a reduction in the assumed rate of return for long-term investments, and other relevant factors. The actuary will also analyze the 6.0% - 13.6% average increases in unfunded liability for 2021, particularly since local governing bodies as employers have long met their pension obligations as previously noted and well documented. In theory, the unfunded liability should be decreasing but it instead appears that the State is using property taxpayer dollars to subsidize its long mismanagement and underfunding of pension system. S-3522 is currently on Second Reading in the Senate.

#### **FISCAL YEAR 2022 STATE BUDGET**

*Earlier this week, NJAC testified before the budget committees in both houses on the Fiscal Year 2022 State Budget concerning in-person early voting, 9-1-1 funding, and local government pension payments as summarized above.*

IN-PERSON EARLY VOTING: Although NJAC appreciates the fact legislation now on the Governor's Desk in **SENATE, No. 3203 (Gill D-34/Greenstein D-14)(Zwicker D-16/Danielson D-17)** would take into consideration the State's constitutional prohibition against unfunded mandates and includes a reimbursement mechanism to address some of the in-person early voting expenses as required under the bill, the Association is concerned with the legislation's \$2.0 million appropriation as the figure is primarily dedicated for "printing on demand ballot and elections system" but does not address the substantial costs associated with purchasing new voting machines, E-poll books, and more.

NJAC continues to work with our election officials on collecting data from all 21 counties, but preliminary estimates indicate that it could cost approximately \$77,000,000.00 for the purchase of new voting machines at \$31,000,000.00, new voting machine software at \$1,200,000.00, new E-poll books at \$43,000,000.00, and new ballot printing systems at \$1,900,000.00. In addition to these capital expenditures, the legislation would force all counties to invest in new technology necessary to operate early voting centers, communicate with election officials, and protect the integrity of voter information. The measure would further compel county governments to incur long-term operational expenses for new hires and overtime costs at new voting centers and for the storage and maintenance of additional voting equipment.

Although Governor Murphy has allocated \$20.0 million in the Fiscal Year 2022 State Budget to address in-person early voting expenses, that figure will fall far short of what it will ultimately cost to implement. With this in mind, NJAC submits that failure to adequately fund in-person early voting as required under pending legislation may constitute an unfunded State mandate in violation of the Constitution as the New Jersey Council on Local Mandates has previously ruled that an underfunded mandate is tantamount to an unfunded mandate under certain circumstances. Please note that NJAC is not opposed to conducting in-person early voting, but the State Legislature and Governor Murphy should strongly consider the recommendations of our election officials to either delay implementation until the State remedies the functionality of the State Voter Registration Database or implements in-person early voting in a willing pilot county as the challenges to execute in-person early voting for the fast approaching general election run far deeper than just the extraordinary costs to implement. S-3522 is on the Governor's Desk awaiting his signature.

LOCAL 9-1-1 CENTERS: The State of New Jersey has once again earned the unfortunate distinction of being the worst offender of diverting 9-1-1 fees in the entire nation. As has been well documented, the State collects annually from consumers approximately \$122,905,000.00 million in telecommunication surcharges as 9-1-1 System and Emergency Response Fees (Fees) and deposits these monies into the 9-1-1 System and Emergency Trust Fund Account (Fund). In fact, the Garden State has collected approximately \$1.5 billion in Fees since 2006 with only 11% of Fund monies being spent on eligible expenses.

Moreover, the State has failed to provide any funding for eligible expenses to local 9-1-1 centers operated by counties and municipalities and is the only state in the nation that doesn't share 9-1-1 monies. Instead, the State has diverted Fund dollars to cover general operating expenses in the Department of Law and Public Safety. As previously reported, the Federal Communications Commission (FCC) concluded in its recent "Annual Report on the Collection and Use of 9-1-1 Fees," that New Jersey diverted \$92,083,000.00 of the \$122,905,000.00 it collected in 911 fees. As a direct result of this longstanding misallocation of funds, the FCC adopted rules in 2018 that now prohibit New Jersey, and its counties and municipalities, from applying for millions of dollars in federal grant monies to upgrade 9-1-1 centers with Next Generation 9-1-1 (NG9-1-1) capabilities. Additionally, the FCC is in the process of establishing the "Ending 9-1-1 Fee Diversion Now Strike Force" (9-1-1 Strike Force), which will focus on ending the diversion of 9-1-1 fees by States like New Jersey, Nevada, New York, Rhode Island, and West Virginia.

For the record, local governments as first responders, handle the vast majority of the State's 911 calls through local public safety answering points (PSAPs) and have come to inequitably rely on the collection of local property taxpayer dollars to improve, operate, and maintain 911 systems. County governments alone spent an estimated \$175.0

million over the last several years on capital improvements for facility upgrades, telephone systems, computer aided dispatch, location mapping technology, voice recording technology, data analytics, and NG911 upgrades. Counties also spend an estimated \$96.0 million per year on general operating expenses for salaries, staff training, system maintenance, network security, and IT consulting services. *The table and footnotes below summarize the recent investments made by county governments in operating and maintaining 9-1-1 centers.*

COUNTY	5 YEAR CAPITAL INVESTMENTS <sup>1</sup>	2020 OPERATING EXPENSES <sup>2</sup>	MUNICIPALITIES <sup>3</sup>
Atlantic	\$3,754,702.00	Not Applicable	Not Applicable
Bergen	\$6,005,549.00	\$4,492,759.00	21/70
Burlington	\$45,000,000.00	\$8,460,921.12	40/40
Camden <sup>7</sup>	\$6,669,513.00	\$15,942,326.00	37/37
Cape May	\$5,811,000.00	\$1,724,000.00	4/16
Cumberland	\$15,550,000.00	\$2,878,200.00	14/14
Gloucester	\$4,008,352.00	\$22,247,460.00	24/24
Hudson	\$339,306.37	\$900,396.05	12/12
Hunterdon	\$2,405,000.00	\$2,250,794.00	26/26
Mercer	\$9,866,065.00	\$2,670,434.20	12/12
Monmouth	\$12,584,217.35	\$16,116,505.36	38/53
Morris	\$30,200,000.00	\$10,800,000.00	23/39
Salem	\$1,758,000.00	\$2,074,000.00	15/15
Somerset	\$9,796,543.00	\$7,436,684.00	19/21
Sussex	\$1,627,225.00	\$1,795,490.00	13/24
Union	\$14,018,200.00	\$1,494,766.00	10/21
Warren	\$5,075,000.00	\$2,507,404.00	22/22
<b>COUNTY TOTALS</b>	<b>\$174,468,672.72</b>	<b>\$96,355,455.73</b>	<b>330/445 (74%)</b>

#### FOOTNOTES

1. This column summarizes each county's capital costs for the last five years for its 9-1-1 center, which may include facility improvements, and the purchase or lease of hardware and software such as telephone systems, computer aided dispatch, location mapping technology, voice recording technology, data analytics, and NextGen 9-1-1.
2. The column summarizes each county's most recent annual operating costs for its 9-1-1 center, which may include administrative costs such as salaries, staff training, ongoing systems maintenance, network security costs, and IT consulting services.
3. This column summarizes the number of municipalities in each county and the number of these municipalities that utilize the county's 9-1-1- center for dispatch and emergency services.
4. Please contact us at (609) 394-3467 for additional footnotes for the above table.

NJAC is also concerned with the costs associated with implementing a new law that would prohibit the disclosure of personal information for certain judicial and law enforcement officials, issuing Code Blue Alerts, and operating court facilities.

## **POLICE PRESENCE AT POLLING LOCATIONS AND BALLOT DROP BOXES**

On March 25th, the General Assembly passed by a vote of 45-25- **ASSEMBLY, No. 4655** (*Reynolds Jackson D-15/Wimberly D-35*), which would limit the presence of law enforcement officers at polling places and ballot drop boxes.

In general, this bill would limit the presence of police officers at polling places and ballot drop boxes during an election. More specifically, the measure would prohibit a district board of elections from requesting any municipal, county, or State police officer to assist in preserving the peace and good order at a polling place. The legislation would permit an election board or superintendent of elections to contact a law enforcement agency if information is obtained prior to or during the election that, in the judgment of the election board or superintendent of elections, should be communicated to a law enforcement agency.

The district board of election or superintendent of elections may request law enforcement assistance for a specific emergency, allegation of criminal conduct, or disturbance that exists at the time the request for assistance is made. However, the measure would require the district board to promptly notify the county board of elections or superintendent of election, which would then be required to notify the Secretary of State with all of the above required to maintain a record of the dispatch, which would include: the time of the dispatch, polling place location, reason for the dispatch, name of the police or law enforcement officer, the police or law enforcement officer's badge number, the duration of the police or law enforcement officer's presence, and the immediate outcome of the dispatch. The bill would further require that any information obtained would be deemed a public or government record subject to the Open Public Records Act.

Additionally, the bill would further prohibit a person who is employed as a police officer from serving as a member of the district board of elections, unless the person is off-duty, or serves as a duly authorized challenger during that election. The bill would prohibit a challenger from wearing a police officer's uniform or carrying an exposed weapon at a polling place on election day. Nothing in the bill should be construed to prohibit a police officer who is a candidate for an office and whose name appears upon the ballot to be voted for an election from acting as a challenger during that election as may be permitted by law. The bill would prohibit police officers from being assigned to a polling place during the conduct of an election, except that a district board, superintendent of elections, or a county clerk may request that a police officer or sheriff's officer be assigned to transport specific election materials to a polling place or from a polling place to the district board or county clerk.

The district board of election or superintendent of elections may request law enforcement assistance for a specific emergency, allegation of criminal conduct, or

disturbance that exists at the time the request for assistance is made. However, the measure would require the district board to promptly notify the county board of elections or superintendent of election. The county board of elections or superintendent of elections would then be required to notify the Secretary of State of the dispatch and all of the above would be required to maintain a record of the dispatch, which would include the time of the dispatch, polling place location, reason for the dispatch, name of the police or law enforcement officer, the police or law enforcement officer's badge number, the duration of the police or law enforcement officer's presence, and the immediate outcome of the dispatch. The bill would further require that any information obtained would be deemed a public or government record subject to the Open Public Records Act.

The bill would further prohibit on and off-duty police officers, whether in or out of uniform, from remaining or standing within 100 feet of a polling place or ballot drop box during an election unless that officer is present at the location in response to a request for assistance. The measure would also require that a ballot drop box that has already been installed and permanently affixed prior to the bill's effective date, at any of the following locations may remain at that location notwithstanding that the ballot drop box is within 100 feet of an entrance or exit of a State, county, or municipal police station *if the county commissioners approve the continued presence at that location by a majority vote of the commissioners and with the reasons therefor subject to public disclosure.* **SENATE, No. 2823** (Turner D-15/Gill D-34) on March 25th as well but removed the bill from the board list before the voting session.

#### **DESIGN BUILD CONTRACTS**

On March 25th, both houses passed and sent to the Governor **ASSEMBLY, No. 1285/SENATE, No. 874** (Greenwald D-6/Chiaravolloti D-31)( Singleton D-7/Cryan D-20), which would establish the procedures for the awarding design-build contracts under certain circumstances.

In summary, this legislation would allow a contracting unit to use a design-build contract if the unit can demonstrate that this approach would better meet the needs of the governing body. The bill would require a contracting unit to seek guidance from a registered design professional, develop performance criteria and a scope of work statement, establish evaluation factors for proposals, solicit proposals from design builders, and utilize a technical review committee. The bill would then require the technical review committee to select the most highly qualified design-builders and request that they submit a second proposal and sealed bid, which would then be evaluated by the technical review committee. The contracting unit would separately evaluate the submissions and award the contract in accordance with the bill. NJAC is generally supportive of the measure because its permissive and could help to reduce construction delays under certain circumstances. However, the Association is also

mindful of the concerns raised by our county purchasing officials that the use of design build contracts would marginalize the layer of key oversight provided by purchasing professionals on such projects. Governor Murphy is expected to sign the bill into law.

#### **ORDINANCE NOTIFICATIONS**

On March 17th, the Assembly State and Local Government Committee favorably reported **A-2248/S-818** (*Mazzeo D-2/Armato D-2*)(*Lagana D-38/Pou D-35*), which would permit the transmittal of certain county ordinances by email.

Along the lines of similar NJAC legislative initiatives that were signed into law such as authorizing local governing bodies to pay employees by direct deposit and to their pay bills by electronic fund transfer technologies, NJAC supports this important and timely legislation as it would modernize the antiquated bond notification process. Under current law, a board of county commissioners in a charter county (*Atlantic, Bergen, Essex, Hudson, Mercer, and Union*) must provide, by regular mail within one week prior to the date of a hearing on a proposed bond ordinance, a copy of the proposed ordinance to the clerk of each municipality within the county. As ordinances typically range between 10 to 25 pages long with anywhere from 15 to 70 municipalities located within these counties, authorizing a board of county commissioners to notify municipalities by email of a proposed bond ordinance would save valuable time, resources, and taxpayer dollar. Additionally, the measure would provide much-needed clarification on the bond notification process to non-charter counties. A-2248/S-818 is now on Second Reading in the General Assembly after having previously passed the Senate.

**UPCOMING NJAC EVENTS:** Make sure to visit our website at [www.njac.org](http://www.njac.org) for details about our two remaining virtual workshops on mental health resources and foreclosure sales.

**DID YOU KNOW** honeybees are more likely to swarm during the spring to start new colonies from successful ones?

*"Emergencies have always been the pretext on which safeguards of individual liberty have been eroded." Friedrich Hayek*